

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Leon Stevenson, #213811,	)	C.A. No. 2:08-85-TLW-RSC
	)	
Petitioner,	)	
	)	
vs.	)	ORDER
	)	
Warden, Tyger River Correctional Institution,	)	
	)	
Respondents.	)	
	)	

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The *pro se* petitioner, an inmate at the South Carolina Department of Corrections, seeks *habeas corpus* relief under Title 28, United States Code, Section 2254. (Doc. # 1). This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Robert S. Carr, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Carr recommends that the Petition for a Writ of Habeas Corpus in this case be dismissed without prejudice and without issuance and service of process. (Doc. # 8). Petitioner has filed objections to the Report, in which he indicates that he “agrees with the Magistrate court’s report and recommendation to dismiss without prejudice, to allow petitioner to seek leave from the Fourth Circuit Court of Appeals . . . .” (Doc. # 11).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However,

the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

**THEREFORE, IT IS HEREBY ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 8), petitioner's objections are **OVERRULED**, to the extent that they do not agree in full with the Report, (Doc. # 11); and the Petition for a Writ of Habeas Corpus in this case is dismissed without prejudice and without issuance and service.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
TERRY L. WOOTEN  
UNITED STATES DISTRICT JUDGE

May 8, 2008  
Florence, South Carolina